

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE NO. 170 OF 1994

For Approval of Signature :

Hon'ble MR. JUSTICE B.C. PATEL and
MR. JUSTICE R.R. JAIN

1. Whether Reporters of Local Papers may be allowed
to see the judgments ?

2. To be referred to the Report or not ?

3. Whether Their Lordships wish to see the fair copy
of the judgment ?

4. Whether this case involves a substantial question
of law as to the interpretation of the
Constitution of India, 1950 or any Order made
thereunder ?

5. Whether it is to be circulated to the Civil
Judge ?

Appearance :

Mr Manish R Bhatt, Advocate for the Applicant.

Mr R K Patel, Advocate for the Respondent.

Coram : B.C. Patel & R.R. Jain, JJ.

Date of Decision : 11th July, 1996

Oral Judgment : (Per B.C. Patel, J.)

At the instance of the Assessee, the following
question is referred to this Court under Sec. 256 (1) of
the Income Tax Act, 1961.

"Whether on the facts and in the circumstances of
the case, the Tribunal was right in law in
holding that the assessee was not entitled to
exemption u/s. 47 (vii) of the Income Tax Act,
1961 ?"

2. At the instance of the Revenue, the following
question is referred to this Court under Sec. 256 (1) of
the Income Tax Act, 1961.

"Whether, the Appellate Tribunal is right in law and on facts in holding that when the assessee received shares, debentures and bonds of amalgamated companies, there was no transfer under Section 2 (47) of the I.T. Act, 1961 and consequently no capital gains tax could be charged ?"

3. So far as the question referred to at the instance of the Assessee is concerned, it is required to be answered against the Assessee and in favour of the Revenue in view of the decision of this Court in the case of CIT Vs. Gautam Sarabhai Trust No. 31 (173 ITR 216).

4. So far as the question referred to at the instance of the Revenue is concerned, it is not required to be answered in view of the decision of this Court in the case of CIT Vs. Leena Sarabhai, reported in (1994) 120 CTR (Guj.) 300. Accordingly, the question at the instance of the Assessee is answered against the Assessee and in favour of the Revenue and the question at the instance of the Revenue is not answered. This reference is disposed of accordingly with no order as to costs.
